

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Judith Le	Team: Squad #2	CCRB Case #: 201709514	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 11/16/2017 8:00 PM	Location of Incident: [REDACTED]	Precinct: 73	18 Mo. SOL 5/16/2019	EO SOL 5/16/2019	
Date/Time CV Reported Fri, 11/17/2017 9:12 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/17/2017 9:12 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT2 Lawrence Hotaling	02671	897695	084 PCT
2. SDS David Cheesewright	01990	913752	INT CIS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Adam Geslak	29753	950488	ESS 07
2. DT2 Lenin Guerrero	07483	917726	ESS 07
3. DTS Michael Degregorio	7028	945650	ESS 07
4. DTS Matthew Schmucker	05022	927730	ESS 07
5. SGT Ali Javed	03782	947780	ESS 07
6. DTS Daniel Keane	3448	932844	ESS 10
7. POM Michael Chapman	29706	945581	ESS 10
8. DTS Jason Jackson	7402	938704	ESS 07
9. DTS Matthew Kobel	05311	919253	ESS 07
10. POM Leonard Clarke	27183	940013	084 PCT
11. POM Gerard Fenton	06680	951725	077 PCT
12. POM Andrew Kamna	24865	943423	073 PCT
13. POM Christophe Griffith	00258	951791	077 PCT
14. CPT Daniel Miraglia	00000	913785	E S U

Officer(s)	Allegation	Investigator Recommendation
A.DT2 Lawrence Hotaling	Abuse: Detective Lawrence Hotaling entered § 87(2)(b) in Brooklyn.	[REDACTED]
B.DT2 Lawrence Hotaling	Abuse: Detective Lawrence Hotaling searched § 87(2)(b) in Brooklyn.	[REDACTED]
C.DT2 Lawrence Hotaling	Abuse: Detective Lawrence Hotaling refused to show the search warrant to § 87(2)(b)	[REDACTED]
D.SDS David Cheesewright	Abuse: Sergeant David Cheesewright refused to show the search warrant to § 87(2)(b)	[REDACTED]

Case Summary

On November 17, 2017, § 87(2)(b) filed the following complaint via telephone with the CCRB.

On November 16, 2017, at approximately 8:00 p.m., Detective Lawrence Hotaling of Patrol Borough Brooklyn North's Field Intelligence Office executed a search warrant (**Allegation A: Abuse of Authority – Entry of Premises**, § 87(2)(g) with Sergeant David Cheesewright, Police Officer Gerard Fenton, Police Officer Leonard Clarke, Police Officer Andrew Kamna, and Police Officer Christopher Griffith of Patrol Borough Brooklyn North's Field Intelligence Office, and several officers from Emergency Services Unit Squad 7 at § 87(2)(b) in Brooklyn. After making entry, the officers searched the apartment (**Allegation B: Abuse of Authority – Search of Premises**, § 87(2)(g) while § 87(2)(b) and her boyfriend, § 87(2)(b) were detained in the living room. During this time, § 87(2)(b) asked Detective Hotaling and Sergeant Cheesewright to show her a copy of the search warrant, which they allegedly failed to provide (**Allegations C and D: Abuse of Authority – Refusal to show search warrant**, § 87(2)(g) § 87(2)(b) subsequently received a summons for unlawful possession of marijuana (**Board Review #9**).

There is no video footage capturing the incident itself. § 87(2)(b) provided a cell-phone video of the aftermath (**Board Review #10**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Lawrence Hotaling entered § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Detective Lawrence Hotaling searched § 87(2)(b) in Brooklyn.

§ 87(2)(b) was interviewed at the CCRB on November 28, 2017. § 87(2)(b) was interviewed at the CCRB on December 13, 2017. Detective Hotaling was interviewed at the CCRB on January 18, 2018. Sergeant Cheesewright was interviewed at the CCRB on February 14, 2018. Police Officer Fenton was interviewed at the CCRB on February 26, 2018.

It is undisputed that officers, including Detective Hotaling, entered and searched § 87(2)(b) in Brooklyn at approximately 8:00 p.m. on November 16, 2017. § 87(2)(b)'s apartment is the only apartment on the first floor of § 87(2)(b).

Search Warrant § 87(2)(b) was requested by Detective Hotaling and was issued by a Supreme Court of the State of New York Justice at 1:20 p.m. on § 87(2)(b) (**Board Review #1**). The search warrant commanded officers to enter and search the first floor apartment of § 87(2)(b) in Brooklyn between 6:00 a.m. and 9:00 p.m. § 87(2)(g)

Allegation (C) Abuse of Authority: Sergeant David Cheesewright refused to show the search warrant to § 87(2)(b)

Allegation (D) Abuse of Authority: Sergeant David Cheesewright refused to show the search warrant to § 87(2)(b)

It is undisputed that § 87(2)(b) asked Detective Hotaling and Sergeant Cheesewright to show her the search warrant. What is in dispute is whether they ever did so.

§ 87(2)(b) stated she repeatedly asked Sergeant Cheesewright and Detective Hotaling for a copy of the search warrant, and they repeatedly replied that it was coming. She noted that, as of the date her CCRB interview, she still had not seen the warrant.

§ 87(2)(b) stated that, while in the living room, he observed § 87(2)(b) speaking to Police Officer Fenton. § 87(2)(b) asked Police Officer Fenton twice to see a warrant, and Police Officer Fenton replied that the warrant was in the car. Police Officer Fenton asked Sergeant Cheesewright to get a warrant from the car. Police Officer Fenton then told § 87(2)(b) “We’ve got a warrant for you. We’re going to get the paperwork, don’t worry, but right now we need to do our search.” Sergeant Cheesewright then went to get the warrant, but never came back.

Detective Hotaling stated that after he informed her that they had a search warrant, § 87(2)(b) asked if she could see the search warrant, and Detective Hotaling showed her a copy. Detective Hotaling also directed § 87(2)(b) to the address on the warrant, which corresponded to the apartment they were in.

Sergeant Cheesewright stated he was serving as the search supervisor for the search warrant. He noted that he always carried a copy of the search warrant out of habit, and was the main officer speaking to § 87(2)(b) and § 87(2)(b). Sergeant Cheesewright informed them that the officers had a search warrant and a judge believed there was probable cause for them to conduct a search. Sergeant Cheesewright believed § 87(2)(b) and § 87(2)(b) asked to see a copy of the search warrant, which he provided. He did not believe he had to return to the car to obtain a copy of the warrant.

Police Officer Fenton could not remember if § 87(2)(b) and § 87(2)(b) asked to see a search warrant, but noted that during searches, a copy of the warrant was kept on one of the officers or in the car. Police Officer Fenton had no idea where the search warrant was kept for that incident. He did not have a copy of the search warrant on his person. He did not remember any officers going outside to retrieve a copy of the search warrant.

Patrol Guide Procedure 221-17 states that members of the team executing a search warrant should, when able to do so safely, show a copy of the search warrant upon request (**Board Review #3**).

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- Detective Lawrence Hotaling has been a member-of-service for 27 years and has been a subject in six CCRB complaints and nine allegations, of which one was substantiated:
 - Case number 9200443 involved a substantiated allegation of discourtesy (word) against Detective Hotaling. The Board Recommended Command Discipline, but the NYPD disposition is unknown due to the age of the case.
 - Detective Hotaling's history does not reflect any patterns pertinent to this investigation.
- Sergeant David Cheesewright has been a member-of-service for 26 years and has been a subject in 29 cases totaling 71 allegations, of which 16 were substantiated:
 - Case number 200202002 involved substantiated allegations of physical force, a vehicle search, and threat of force. The Board recommended Charges and the NYPD found Sgt. Cheesewright not guilty.
 - Case 200202912 involved substantiated allegations of question and/or stop, three allegations of frisk and/or search, a vehicle stop, and failure to provide name/shield number. The Board Recommended Charges. The NYPD found Sgt. Cheesewright not guilty of refusal to provide name and shield and question and/or stop, and guilty of three allegations of frisk and/or search, and imposed Instructions.
 - Case 200205206 involved substantiated allegations of a frisk and/or search, a vehicle stop, a vehicle search, and a retaliatory summons. The Board recommended Charges and the NYPD dismissed the charges.
 - Case 200600042 involved substantiated allegations of gun drawn, premises entered and/or searched, and property damaged. The Board recommended Charges and the NYPD declined to prosecute.
 - Sergeant Cheesewright's history does not reflect any patterns pertinent to this investigation.

§ 87(2)(b)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.

§ 87(2)(b)

§ 87(2)(b)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- As of March 27, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**Board Review #8**).

Squad No.: 2

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date